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AMENDMENT AND RESPONSE

Applicant: Mark L. Yoseloff.

Applicant No.: 09/405,921

Filed September 24, 1999

Docket No.: 307.026US1 PA0368.ap.US

Examiner: S. Ashburn

Group Art Unit: 3713

Title: VIDEO GAMING APPARATUS FOR WAGERING WITH

UNIVERSAL COMPUTERIZED CONTROLLER AND I/O INTERFACE FOR UNIQUE ARCHITECTURE

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**STATUS OF THE OBJECTIONS AND REJECTIONS**

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Drawings

Formal drawings were submitted to the USPTO in the parent application. No new requirement for submission of drawings was received by Applicants. It is assumed that the previous drawings have been accepted.

Rejections Under 35 U.S.C. 103(a)

Claims 1-26 have been rejected under 35 U.S.C. 103(a) as unpatentable over McCauley (U.S. Patent No. 6,263,392) in view of Arcade Machine Retrofit (10/20/1996, [www.cygnus.uwa.edu.aujaycole/jaw/arcade.html](http://www.cygnus.uwa.edu.aujaycole/jaw/arcade.html)," hereinafter referred to as "Arcade"). This is the sole rejection of record in the Application

Background Discussion of the Art and Field of the Invention

When new games have been developed within the gaming industry, it has been necessary to develop a customized peripheral interface to support the game (Page 6, lines 25-27). The universal game controller of the present invention is a standard PC-type unit that provides all game functions necessary to **implement** a wide variety of games by loading various program code on the universal controller and then separately providing unique game information (e.g., from a separate gaming application-specific kernel) (see page 8, line 19 through page 9, line 4 of the specification). What is intended to be included in the term game functions includes button controls, coin acceptors, touch screen coordinates, credit managers, currency acceptors, operating system, security devices, game operating code and the like (Page 11, lines 14-22; page 15, line 23 through page 16, line 7). Additional game functions could be a store of images (e.g., cards or roulette wheel/symbols; see page 20, lines 1-4). These are separately provided with the I/O system as pinning-hardware/software in the PC-type system with a motherboard (Page 12, line 18, through page 19, line 8). The harness is fitted to the unique structure of the gaming device and the motherboard is connected to or integral with the harness/pin system (page 13, lines 5-8).

This type of system is quite distinct from conventional implementation of casino gaming systems where the entire system and program is originally installed with both game peripherals

**AMENDMENT AND RESPONSE**

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Docket No.: 307.026US1 PA0368.ap.US

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Group Art Unit: 3713

Title: VIDEO GAMING APPARATUS FOR WAGERING WITHUNIVERSAL COMPUTERIZED CONTROLLER AND I/O INTERFACE FOR UNIQUE ARCHITECTURE

and game rules on the same board, so that replacement of a game in a given machine requires the complete replacement of both the game board and the peripheral controls. The game rules also must be uniquely and completely reconstructed and replaced. In the system claimed in the enabled practice of the invention, the invention provides a distinct set of a) pinning connections and game peripherals and b) game rules/controls. Once these distinct sets are provided, the old game rules from the original video gaming system may be connected through the new pinning/peripheral system or a new set of games rules using the inventively provided pinning system/game peripherals previously installed. In this manner, game designers may need to develop only the rules of the game, and the system peripherals are already available in the apparatus. This dramatically reduces game development time. (e.g., page 15, lines 2-7)

**RESPONSE TO THE REJECTIONS****The Rejection of Claims 1-26 Under 35 U.S.C. 103(a)**

Claims 1-26 have been rejected under 35 U.S.C. 103(a) as unpatentable over McCauley (U.S. Patent No. 6,263,392) in view of Arcade Machine Retrofit (10/20/1996, [www.cygnus.uwa.edu.au/jaycole/jaw/arcade.html](http://www.cygnus.uwa.edu.au/jaycole/jaw/arcade.html), hereinafter referred to as "Arcade").

The rejection is believed to be fairly characterized as asserting that McCauley shows:

- a) Controlling a wagering or video game with a generic computer (col. 1:14-57)
- b) Employing an IBM compatible personal computer as a controller (Col. 6:47-54)
- c) Coupling a communication port to the controller (Col. 6:47-54)
- d) Employing an interface assembly comprising one or more user interface devices (Col. 6:47-54)
- e) Providing user interface devices including buttons and joysticks (Col. 6:23-34)
- f) Configuring an input/output (I/O) interface to communicatively couple the interface assembly to the communication port (Col. 55-60 and 9:34-41)
- g) Employing a generic game controller comprising a pin connector, circuit board connector, circuit board with controls for peripheral devices, and port connector connecting peripherals. (Col. 7:8-27)
- h) Communicating via standard POC communication ports including serial, parallel, and universal serial bus (Col. 6:47-49)

**AMENDMENT AND RESPONSE**

Applicant: Mark L. Yoseloff.

Serial No.: 09/405,921

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UNIVERSAL COMPUTERIZED CONTROLLER AND I/O INTERFACE FOR UNIQUE ARCHITECTURE

Docket No.: 307.026US1 PA0368.ap.US

Examiner: S. Ashburn

Group Art Unit: 3713

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- i) Providing a credit management unit as a user interface device (Col. 23-34)
  - j) Selecting credit management devices from a group including coin acceptors, coin recognition systems, currency acceptors, currency recognition systems, credit card readers, and smart card readers. (Col. 23-24) and
  - k) Providing a security device as a user interface device (Col 4:15-35).

The Office Action then proceeds to list 5 specific features that are believed to not be described by McCauley, but for which Official Notice is effectively taken by the assertion on page 4 that:

“Although not described by McCauley, the features listed above are known or suggested by prior art references. The features still fall into three categories: 1) employing peripherals specific to the wagering game; 2) upgrading a specialized processor with a PC and 3) testing the upgraded system.”

The rejection asserts the relevance of McCauley to the acknowledged recitation of wagering gaming systems (as opposed to video games or arcade games) by asserting that “both arcade and wagering devices fall within the same art and employ analogous equipment. The primary differences are due to the lower security requirements for arcade equipment. It would be obvious to one skilled in the art to employ the teachings of McCauley to improve a wagering game.

It is then asserted that Arcade shows retrofitting of video arcade games. It was then asserted that it was obvious to one of ordinary skill in the art to retrofit the apparatus of McCauley as described by Arcade, therefore rendering the invention obvious to one of ordinary skill in the art.

It is first to be noted that the art cited against the present invention is not relevant to the actual field of the invention. The present invention as claimed and as originally claimed recites computerized wagering game apparatus, while the reference art used in the rejection is uniformly directed towards arcade games. Contrary to the assertion in the rejection to the contrary, this is non-analogous art and does not form a good basis for even beginning an analysis of the present invention. This is evident not only by the presence of higher security requirements that is acknowledged in the rejection, but also by the inclusion of different functionalities provided in the respective play of gaming devices. Among the various features that clearly distinguish commercial gaming systems versus commercial games are at least the following:

**AMENDMENT AND RESPONSE**

Applicant: Mark L. Yoseloff.

Serial No.: 09/405,921

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Docket No.: 307,026US1 PA0368.ap.US

Examiner: S. Ashburn

Group Art Unit: 3713

Title: VIDEO GAMING APPARATUS FOR WAGERING WITHUNIVERSAL COMPUTERIZED CONTROLLER AND I/O INTERFACE FOR UNIQUE ARCHITECTURE

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- 1) Games almost always embody skill functions. Although some literature on gaming systems reference skill and skill functions, no US jurisdictions allow genuine skill capability in the play of wagering systems. Any skill ability is, for example, in maintaining specific cards in the play of differing strategies (as in draw poker), not in any special physical ability or selection of alternatives that clearly, predictably and directly affect results (e.g., choosing a correct answer in a trivia game, or shooting a target).
  - 2) Games as described by McCauley and Arcade do not disclose the use of randomness requirements. In opposition to not allowing skill, gaming systems must have a system that provides awards randomly and elements such as random number generators that are used in gaming systems are not shown to be used or useful in games.
  - 3) Information regarding game play and credit and game status is not supported and maintained as a critical element in power shutdowns in game systems, while it is an important element in gaming systems.
  - 4) The dismissal of security as a trivial element or difference between gaming systems and games does not acknowledge sufficient importance or complexity to such security efforts. The security must protect against a vast array of potential adversarial interventions, including both physical (mechanical and electrical and electromagnetic) and electronic (data software manipulation). This is far from the trivial consideration given these distinctions in asserting equivalence in the rejection.
  - 5) Games do not pay out money.

It is therefore a fundamental element in the traversal of the rejection that game technology and the gaming technology are not equivalent. Even though specific formats of wagering within the gaming industry may be referred to as 'games,' wagering 'games' in the gaming industry represent a distinct field of commerce. Even within the search areas in the US Patent and Trademark Office, distinct subclasses are provided for wagering versus standard game play, skill elements are segregated into distinct search areas, and skill versus randomness is separated into distinct search areas. The asserted equivalence does not exist.

**AMENDMENT AND RESPONSE**

Applicant: Mark L. Yoseloff.

Serial No.: 09/405,921

Filed September 24, 1999

Title: VIDEO GAMING APPARATUS FOR WAGERING WITH

UNIVERSAL COMPUTERIZED CONTROLLER AND I/O INTERFACE FOR UNIQUE ARCHITECTURE

Docket No.: 307.026US1 PA0368.ap.US

Examiner: S. Ashburn

Group Art Unit: 3713

In addition to the structural difference and functional differences described as differentiating the wagering gaming industry from video arcade games, the markets operate differently. These market operating differences provide enhanced utility for the practice of the present invention that would not be met by a similar practice in the arcade game industry.

For example, the gaming industry utilizes a recurring licensing revenue model. This makes the inventive concept of a limited retrofit recited in the process claims and enabled by the structure recited in the apparatus claims much more appealing. The partial retrofit described in the present invention reduces the hardware/apparatus cost in providing a 'new' or retrofit game. Additionally, there are even greater potential savings by the potential elimination of licensing fees on the games. Additionally, there are laws in some gaming jurisdictions that require that cabinets be maintained (as a security and fraud evidence matter). Older gaming apparatus must therefore be warehoused, which is an accumulating expense. The partial retrofit enabled in the practice of the present invention allows upgrading and partial replacement of significant components, at a minimum cost, yet providing the latest technology and a wide variety of games in the old cabinets. This has not heretofore been enabled except by the complete removal and complete replacement of each and every computer driven function in the machine – the same type of rip out everything practice identified by Arcade. The partial retrofit described in the claims and enabled in the apparatus claimed is therefore a unique opportunity and uniquely suitable to the gaming industry.

Additionally, there is substantial information recited in the claims that also clearly differentiates the invention and the field of the invention from the prior art. Among such limitations are (from claim 1):

- a) computerized wagering game status information and
- b) symbol elements that change with the play of the wagering game.

There is absolutely no disclosure in either of the references used in the rejection with regard to these types of limitations in the claims. The rejection is fatally deficient with respect to providing disclosure of underlying limitations and elements of the claimed invention.

The rejection fails to appreciate the underlying concept of the invention recited in the claims. This failure will be analyzed with respect to claim 1, with that claim reproduced below, and salient deficiencies in the prior art used in the rejection highlighted in the claim.

AMENDMENT AND RESPONSE

Applicant: Mark L. Yoseloff.

Serial No.: 09/405,921

Filed September 24, 1999

Title: VIDEO GAMING APPARATUS FOR WAGERING WITH

UNIVERSAL COMPUTERIZED CONTROLLER AND I/O INTERFACE FOR UNIQUE ARCHITECTURE

---

Docket No.: 307,026US1 PA0368.ap.US

Examiner: S. Ashburn

Group Art Unit: 3713

A computerized wagering game apparatus, comprising:

a computerized game controller operable to control a computerized wagering game;

a video display device providing a visual representation of a signal provided by the computerized game controller such that the video display and/or slot display device displays at least one visual image selected from the group consisting of

- c) computerized wagering game status information and
- d) symbol elements that change with the play of the wagering game;

a communication port communicatively coupled to the computerized game controller;

a interface assembly comprising one or more user interface devices; and

an I/O interface adapter configured to communicatively couple the interface assembly to the communication port.

Each of these features in wagering apparatus is absent from the disclosure of the references cited in the rejection. Additionally, the concept of executing peripheral controls in the universal controller from a separate computer (e.g., the main processor) has not been disclosed in the art cited in the rejection. McCauley teaches that peripheral controls are executed by a dumb processor that is separate from the main processor. (column 2, lines 47-50)

Additionally, the teachings in Arcade teach nothing reasonable to the practice of the present invention. A brief review of Arcade shows that it is a worthless reference with regard to the recited practice of the invention.

The first step taught by Arcade is "Rip out everything from the box!" (emphasis natural). The second step in Arcade is "Rewire the buttons." The third step is "Chop up a keyboard." The entire procedure and disclosure is to replace one existing play system with another complete play system. There is no concept of providing a universal peripheral wagering game system that can then be driven by replaceable wagering game rules provided as a distinct component. One additional significant advantage references above is the fact that the designs and methods recited

AMENDMENT AND RESPONSE

Applicant: Mark L. Yoseloff.

Serial No.: 09/405,921

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Title: VIDEO GAMING APPARATUS FOR WAGERING WITH

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Docket No.: 307.026US1 PA0368.ap.US

Examiner: S. Ashburn

Group Art Unit: 3713

in the claims enable the universal controller to adapt to different peripherals instead of rewiring and reconfiguring the entire apparatus, cabinet and box. The process performed by Arcade is precisely the type of complete stripping and reconstruction that is avoided in the practice of the present invention. This is clearly brought out in the process claims and enabled in the structure of the apparatus and devices claimed.

Note the distinct difference of this process (the only retrofitting process cited in the art used in the rejection) and the process recited in claim 9:

“...a) removing an original special-purpose computerized game controller used to control a computerized wagering game from the apparatus, the original computerized game controller designed to and capable of working exclusively with a particular computerized wagering game apparatus;

b) inserting a universal computerized game controller operable to control a video wagering game that can be played on the video wagering game apparatus and an I/O interface that operatively couples the universal computerized game controller to user interface devices of the wagering game apparatus;...”

Rather than ripping out the entire box (the quote from Arcade), the game controller is removed, and the wagering game elements remain in the system unchanged and are then driven by the inserted universal game device. These steps are not shown by McCauley in view of Arcade.

The distinctions in the limitations of claim 19, reproduced below, are even more distinguishing and unobvious from the disclosure and teachings of McCauley in view of Arcade:

“A method for reconfiguring a computerized wagering game apparatus having a harness for associating computerized game controller with output devices in the apparatus, the method comprising:

a) removing an original special-purpose computerized game controller used to control a computerized wagering game from the apparatus, the original computerized game controller designed to and capable of working exclusively with a particular computerized wagering game apparatus;

AMENDMENT AND RESPONSE

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UNIVERSAL COMPUTERIZED CONTROLLER AND I/O INTERFACE FOR UNIQUE ARCHITECTURE

Docket No.: 307.026US1 PA0368.ap.US

Examiner: S. Ashburn

Group Art Unit: 3713

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- b) inserting a universal computerized game controller operable to control a video wagering game that can be played on the video wagering game apparatus and an I/O interface that operatively couples the universal computerized game controller to user interface devices of the wagering game apparatus; and
- c) sending signals from the computerized game controller through the I/O and harness to confirm proper communication between the computerized game controller and the user interface devices.

McCauley deals with the construction of a game, and Arcade deals with the wholesale stripping of all material from a game and its replacement with an entirely new system. There is no concept in one or the other or the combination of references for removing a special wagering game specific computer from a wagering game apparatus, leaving other elements within the apparatus, and providing a new wagering game controller of the type recited in the claims. This process is even further limited and elucidated in claims 19 and 30, where at least one specific feature is required to be left in the original apparatus, as are the other required process steps that distinguish from McCauley in view of Arcade.

Claim 10 similarly requires that the "...display device displays at least one visual image selected from the group consisting of a) computerized wagering game status information and b) symbol elements that change with the play of the wagering game." This is not shown by either reference or the combination of references.

Claim 18 requires a combination of specific elements that are not suggested by the combination of Acres in view of Arcade. Specifically claim 18 recites:

18. An interface adapter configured to operatively couple an interface assembly to a communication port operatively coupled to a computerized video and/or slot wagering game controller comprising nonvolatile storage



**AMENDMENT AND RESPONSE**

Applicant: Mark L. Yoseloff.

Serial No.: 09/405,921

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UNIVERSAL COMPUTERIZED CONTROLLER AND I/O INTERFACE FOR UNIQUE ARCHITECTURE

Docket No.: 307.026US1 PA0368.ap.US

Examiner: S. Ashburn

Group Art Unit: 3713

---

**with instructions stored thereon**, the instructions when executed operable to cause the computer to execute a video and/or slot wagering game controlled via the user interface assembly.

The highlighted limitations are clear recitations of elements and their function in the practice of the invention. This combination of elements and their functions are not shown in the combination of McCauley in view of Arcade, which has been used to reject the claims. In particular, there is no interface adapter operatively coupling an interface assembly to a communication port coupled to a **computerized video wagering game controller comprising volatile storage with instructions stored therein**. These highlighted features and functions are clearly absent from the combination of references used in the rejection. Claims 22-25 further recite an aspect of the invention emphasizing these points and also clearly distinguish from the two references cited in the rejection.

**RESPONSE TO THE COMMENTS OF THE EXAMINER**

The essence of the comments provided by the Examiner in the Office Action mailed on April 20, 2001 is to the effect that "It is common necessity to upgrade obsolete processors for faster, more capable system" and this is, in effect, all that the present invention claims. It is this preconception of what is being performed in the present invention that forms the erroneous basis for the rejection.

The present invention is not merely an upgrade in processor capability. It is a complete reconfiguring of the architecture to enable ready design and implementation of games on the supporting new architecture. There is no other system available, in arcade games or video wagering games that provides underlying intelligence that can be used in the design and play of multiple games. In video arcade games, each game has its complete software system. Different games are played by complete replacement of the game card and game chips. There is no immortal component with intelligence that can be used in multiple games. There are no fundamental game properties (e.g., image graphics) that can be carried from game to game, without the need to design new imagery for each new game.

AMENDMENT AND RESPONSE

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Serial No.: 09/405,921

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Title: VIDEO GAMING APPARATUS FOR WAGERING WITH

UNIVERSAL COMPUTERIZED CONTROLLER AND I/O INTERFACE FOR UNIQUE ARCHITECTURE

Docket No.: 307.026US1 PA0368.ap.US

Examiner: S. Ashburn

Group Art Unit: 3713

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By practice of the present invention, imagery of cards is maintained in the apparatus and the imagery is executed by the game controller. This is recited within the claim language (e.g., claim 18) of:

“...a computerized video wagering game controller comprising nonvolatile storage with instructions stored thereon, the instructions when executed operable to cause the computer to execute a video and/or slot wagering game controlled via the user interface assembly.

This is a system that is fundamentally antagonistic to the underlying design of video arcade games and personal arcade games.

**AMENDMENT AND RESPONSE**

Applicant: Mark L. Yoseloff.

Serial No.: 09/405,921

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UNIVERSAL COMPUTERIZED CONTROLLER AND I/O INTERFACE FOR UNIQUE ARCHITECTURE

Docket No.: 307.026US1 PA0368.ap.US

Examiner: S. Ashburn

Group Art Unit: 3713

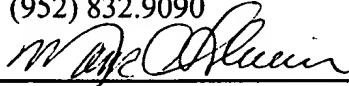
**CONCLUSION**

All rejections have been shown to be in error. All rejections should be withdrawn and all claims allowed.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Assistant Commissioner of Patents, Washington, D.C. 20231 on January 24, 2002.

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